

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

IN THE MATTER OF

OLIN CORPORATION, EUREKA
INVESTMENT COMPANY, MUSTANG
TRACTOR AND EQUIPMENT COMPANY,
SOUTHERN PACIFIC TRANSPORTATION
COMPANY, CONSOLIDATED LEASING
AMPERSAND TERMINALS, INC., AND
HOUSTON BELT & TERMINAL RAILWAY
COMPANY,

RESPONDENTS

DOCKET NUMBER

CERCLA-VI-4-83

ADMINISTRATIVE ORDER
ON CONSENT

OLIN CORP. SP OWNER
TXD000602028

This ADMINISTRATIVE ORDER ON CONSENT is issued pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9606(a), by authority delegated by the President of the United States by Executive Order 12316, August 20, 1981, 46 Fed. Reg. 42237, to the Administrator of the United States Environmental Protection Agency (hereinafter "EPA") and redelegated by the Administrator of the EPA to the Assistant Administrator, Office of Solid Waste and Emergency Response, EPA.

Complainant, the Assistant Administrator, and Respondents, through their respective attorneys and authorized representatives, hereby consent and agree to the FINDINGS and ORDER set out below.

After a careful investigation of the relevant facts, it has been determined that an imminent and substantial endangerment to public health or welfare or the environment may exist because of actual or threatened releases of hazardous substances at a Houston, Texas, facility formerly owned and operated by Respondent Olin Corporation and described herein.

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Notice of the issuance of this Order has heretofore been given to the State of Texas.

FINDINGS OF FACT

1. Respondent Olin Corporation (hereinafter "Olin") is incorporated in the Commonwealth of Virginia, and is the former owner or operator of a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9), comprising approximately 18.6 acres and located at 7621 Wallisville Road, in Houston, Texas (hereinafter "Olin Facility"). From 1950 to 1972, Olin formulated, packaged, and shipped various pesticides at this facility, including BHC (lindane), DDD, DDT, dieldrin, toxaphene and PCNB among several others. Each of the above pesticides specified above have been found in samples acquired from on and around the Olin Facility, and they are hazardous substances as defined in Section 101 (14) of CERCLA, 42 U.S.C. §9601 (14). These substances have contaminated the sediments and soils in and around a railroad right-of-way and ditch contiguous to the eastern boundary of the Olin Facility, on the Olin facility itself, and they threaten to contaminate surface waters of the United States and the groundwater as well.

2. Respondent Eureka Investment Company (hereinafter "Eureka") is incorporated in the State of Texas, and is the owner or operator of approximately 9.5 acres, comprising approximately the western half of the Olin Facility, and is the owner of a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

3. Respondent Mustang Tractor and Equipment Company (hereinafter "Mustang") is incorporated in the State of Texas and is the successor

in interest of Eureka, having assumed all rights, interests, assets, and liabilities of Eureka. Mustang occupies approximately the southern 5.5 acres of its approximate half of the Olin Facility and is the owner or operator of a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. §101(9).

4. Respondent Southern Pacific Transportation Company (hereinafter "Southern Pacific") is incorporated in the State of Delaware and is the owner of approximately the eastern 9.1 acres of the Olin Facility, comprising about one half of the Olin Facility, known and hereinafter referred to as the "Oliver Yard". Southern Pacific is the owner or operator of a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

5. Respondent Consolidated Leasing Ampersand Terminals, Inc. (hereinafter "Consolidated") is incorporated in the State of Delaware and is the lessee of Eureka and Mustang. Consolidated was formerly known as Seapac Container Service, Inc. (hereinafter "Seapac") and Seatrain Pacific Services, Inc. (hereinafter "Seatrain") and is in fact the same corporation as Seapac and Seatrain. Consolidated leases approximately the northern 4 acres of Eureka's and Mustang's half of the Olin Facility. Consolidated is the owner or operator of a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

6. Respondent Houston Belt & Terminal Railway Company (hereinafter "Houston Belt") is incorporated in the State of Texas and is the owner of a railroad right-of-way running the length of the eastern boundary of the Olin Facility. This area is heavily contaminated with the hazardous substances, pollutants and contaminants listed in paragraph no. 1 above and is contiguous and

appurtenant to the Olin Facility, so as to be indistinguishable from it. A railroad spur formerly served the Olin Facility from the Houston Belt right-of-way and facilitated its operations.

Houston Belt is the owner or operator of a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

7. When Olin's pesticide plant located on the Olin Facility was shut down in 1972, Olin sold the roughly 18.6 acres of property at this site to Eureka of El Campo, Texas. As part of the termination of its operations, Olin cleaned up the plant area by disposing of hazardous substances both on and off the premises of the Olin Facility. Thereafter, the buildings were razed, the area graded and the property subdivided.

8. In 1977, the Oliver Yard, comprising the eastern approximately 9.1 acres of the Olin Facility was purchased from Eureka by Southern Pacific. Currently the southwest portion of the Eureka property, roughly 5.5 acres, is occupied by Mustang, Eureka's successor in interest. Mustang operates a tractor and equipment distributorship on this land. The roughly 4 acres to the north of Mustang (hereinafter the "Seatrail Lot") is leased to Consolidated and is operated by Consolidated primarily as a cargo container service and storage facility.

9. In late 1980, an EPA representative reconnaissance team inspecting the Olin Facility area discovered some suspect piles of material in the Houston Belt right-of-way contiguous to the eastern boundary of the Olin Facility. Samples taken from these piles confirmed the presence of hazardous substances (discarded pesticides) in high concentrations, principally toxaphene and pentachloronitrobenzene (PCNB). At the request of EPA, Houston Belt moved rapidly to remove these hazardous substances, disposing of them in an approved disposal facility under EPA supervision. Subsequent sampling of the Olin Facility area by EPA

representatives confirmed further contamination as set out in paragraph no. 1. above. These samples revealed that the most contaminated area on or around the Olin Facility is apparently the north-south ditch along its eastern boundary, much of which is located in the Houston Belt right-of-way. Total pesticide (toxaphene, PCNB, DDD, DDE, DDT, and dieldrin) levels there range up to levels of 41,508 parts per million (ppm) at depths of up to 24 inches.

10. A drainage area along the northeastern side of the Olin Facility, running in an east-west direction, is contaminated with pesticides, one sample showing a toxaphene concentration of 1490 ppm.

11. The drainage ditch upstream of the ditch mentioned in paragraph no. 9 above (i.e., to the north of it) is also contaminated with pesticides, one sample showing a total pesticide concentration of 73 ppm. Due to the very flat nature of the terrain in the area, it is likely that this contamination is a result of backwash from the more heavily contaminated southerly section of this ditch. Alternatively, the contamination may be due to the fact that the northeast corner of the Olin Facility is at a slightly higher elevation than the surrounding area, and that water may flow both to the north and to the south.

12. Significant levels of pesticides have also been detected along the western edge of the northern sector of the Southern Pacific section of the Olin Facility. A surface sample here showed a DDT level of 2030 ppm. Samples acquired at 24" and 48" depth from the same location however, have to date indicated pesticides levels of less than 1 ppm.

13. The surface of the Seatrain Lot (northwestern area of the Olin Facility) is also somewhat contaminated, one surface sample showing a total pesticide

level of 37.4 ppm. Samples at 24" and 48" from the same location, however, have to date showed pesticides levels of less than 1 ppm.

14. Samples from depths of 24" and 48", and at the surface, were collected from the open area of the Mustang section of the Oliver Facility, but they have to date demonstrated pesticide levels of less than 1 ppm.

15. One sample location found near a drainage ditch at the center of the Olin Facility has also been sampled by EPA representatives. At this location surface samples have showed total pesticide levels of 15 ppm, while samples taken at the 24" and 48" depths from this location have to date showed levels of less than 1 ppm.

16. Aerial photographs of the Olin Facility from past years have documented the presence of waste pits and dump areas at the northwestern section of the facility (now the Seatrain Lot) and a dump area at the center of the eastern side of the facility.

17. Through surface water runoff and leaching, infiltration, percolation into soil, subsoil, and groundwater, releases of hazardous substances have occurred and may continue to occur from Olin Facility into the environment. These releases may constitute an imminent and substantial endangerment to the public health or welfare or to the environment.

ORDER

18. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), Respondents are hereby ordered to comply with the following schedule of compliance:

I. NORTH-SOUTH DITCH AT EASTERN BOUNDARY OF OLIN FACILITY

- a. Within ten (10) months from the effective date of this ORDER. Subject to EPA review and approval or modification, remove and replace soils as specified in items 1 and 2 of page 2 of the Olin Draft Remedial Action Plan (Attached hereto, marked "Attachment I", and hereinafter referred to as the "Olin Plan") with the following exception: in addition to the 30 inches in depth of soil to be removed as specified in item 1 of the Olin Plan, soils should also be removed to such a depth that contamination does not exceed background levels for all pesticides. Evidence of attainment of background levels listed in paragraph 1 should be presented to EPA prior to soil replacement.

II. NORTH-SOUTH DITCH AT EASTERN BOUNDARY, SOUTH OF WALLISVILLE ROAD

- a. Within two (2) months from the effective date of this ORDER. Take five additional soil samples to depths of six inches along the southerly drainage path intervals of 500 feet, beginning 1000 feet south of Wallisville Road, for a total distance of 2,000 feet.
- b. Within four (4) months from the effective date of this ORDER. Analyze the samples in paragraph 18.II.a for pesticides, including, at a minimum; BHC, DDT, DDD, dieldrin, toxaphene and PCNB and submit the results of these analyses to EPA for review and approval. Standard EPA analytical procedures should be followed.

- c. Within six (6) months from the effective date of this ORDER.

On the basis of the above sampling and analyses, propose soil removal and replacement to eliminate any contamination found to be above background levels. If respondents believe no additional work is needed, then Respondents will submit to EPA for review and approval, a brief report, stating why no such work is needed.

III. NORTH-SOUTH DRAINAGE DITCH TO THE NORTH OF THE DITCH DESCRIBED IN PARAGRAPH NO. 18.I. ABOVE

- a. Within two (2) months from the effective date of this ORDER.

Take three surface sediment samples to depths of 6 inches from the North-South drainage ditch, located to the north of the ditch described in paragraph 18.I above, at locations 200 feet, 300 feet, and 400 feet, respectively, to the north of the northeast corner of the Olin Facility.

- b. Within four (4) months from the effective date of this ORDER.

Analyze the 3 samples required by paragraph 18.III.a. above as in paragraph 18.II.b., and submit to EPA for review and approval, the results of these analyses.

- c. Within six (6) months from the effective date of this ORDER.

On the basis of the sampling and analysis required by paragraphs no. 18.III.a. and 18.III.b. above, submit to EPA for review and approval, a proposal for extent of soil removal and replacement in this ditch. If Respondents believe no additional

work is needed, then Respondents will submit to EPA for review and approval, a brief report stating why no such work is needed.

- d. Within ten (10) months from the effective date of this ORDER.

Subject to EPA review and approval or modification, complete any soil removal and replacement required by paragraph no. 18.III.c. above.

IV. EAST-WEST DRAINAGE AREA AT NORTHEASTERN BOUNDARY OF OLIN FACILITY

- a. Within ten (10) months from the effective date of this ORDER.

Subject to EPA review and approval or modification, remove and replace soils as specified in item 3 of the Olin Plan with the following exception: in addition to the 18 inches in depth of soil to be removed, as specified in item 3 of the Olin Plan, soils should also be removed to such depth that contamination does not exceed background levels. Evidence of attainment of background levels should be presented to EPA prior to soil replacement.

- b. Within two (2) months from the effective date of this ORDER.

Take two additional surface soil samples to depths of six inches and twelve inches each in an area 50 feet north of the ditch measured 300 feet west of the northeast corner.

- c. Within four (4) months from the effective date of this ORDER.

Analyze these four samples in paragraph 18.IV.b. for pesticides as required by paragraph 18.II.b. and submit the results of these analyses to EPA for review and approval.

- d. Within six (6) months from the effective date of this ORDER.

On the basis of the above sampling and analysis, propose soil removal beyond that which is specified in item 3 on page 2 of the Olin Plan and submit this proposal, in writing, to the EPA, for review and approval. If Respondents believe no additional work is needed, then Respondents will submit to EPA for review and approval, a brief report, stating why no such work is needed.

V. CENTRAL DRAINAGE DITCH

- a. Within two (2) months from the effective date of this ORDER.

Take five surface sediment samples from the central drainage ditch of the Olin Facility at locations of 50 feet, 150 feet, 250 feet, 450 feet, and 800 feet, respectively, to the south of the north fence on the Olin Facility. Each such sample will extend to a depth of six inches beneath the surface.

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- b. Within four (4) months of the effective date of this ORDER.

Analyze the samples required by paragraph no.

18.IV.a. above for pesticides as described in item 18.II.b. above, and submit the results of these analyses to EPA for review and approval.

- c. Within six (6) months of the effective date

Based on the analyses required by paragraph no.

18.IV.b. above, submit to EPA for review and approval, a plan of remedial action for the central drainage ditch and a schedule by which that plan will be accomplished.

- d. Within ten (10) months of the effective date of this ORDER.

Subject to EPA review and approval or modification, complete the remedial work described in paragraph no. 18.IV.c. above, according to the schedule set out in that paragraph.

VI. SEATRIN LOT (NORTHWEST QUADRANT OF OLIN FACILITY)

- a. Within two (2) months from the effective date of this ORDER.

Take six evenly spaced soil cores from this area, each core being to a depth of six inches below the existing cover material on the site.

- b. Within four (4) months from the effective date of this ORDER.

Analyze the samples required by paragraph no.

18.V.a. above for pesticides, as described in paragraph 18.II.b. above, and submit to EPA for review and approval the results of these analyses to the EPA.

- c. Within six (6) months from the effective date of this ORDER.

Based on the above analyses, submit to EPA for review and approval a plan of remedial action for the Seatrain Lot, and a schedule by which that work will be accomplished. Should the Respondents believe that no additional work is needed, then the Respondents will submit to EPA for review and approval, a brief report stating why no such work is needed.

- d. Within ten (10) months from the effective date of this ORDER.

Subject to EPA review and approval or modification, complete any work required by paragraph no. 18.V.c. above.

VII. SUBSURFACE INVESTIGATION

- a. Within two (2) months from the effective date of this ORDER.

Obtain soil cores at the locations and depths described in "Subsurface Coring Plan" (Attached hereto and marked "Attachment III"), and identify soil stratigraphy in these cores.

- b. Within four (4) months from the effective date of this ORDER.

Conduct pesticide analyses, as described in paragraph no. 18.II.b. above, in the cores at those depths at which contamination is noticeably present, or in the event that no contamination is noticeably present, at depth levels of 10 feet, 25 feet, and 40 feet, respectively, in 40 foot holes; at the surface; and at depth

levels of 5 feet, 10 feet and 20 feet in 20 foot holes. Submit to EPA for review and approval the results of these analyses.

- c. Within six (6) months from the effective date of this ORDER.

On the basis of the sampling and analyses required by paragraphs no. 18.VI.a. and 18.VI.b. above, submit to EPA for review and approval, further monitoring and/or remedial actions, including a schedule by which such monitoring and remedial work will be accomplished. If Respondents believe that no monitoring or remedial work is needed, then Respondents will submit to EPA for review and approval, a brief report stating why no such work is needed.

- d. Within the EPA approved schedule required by paragraph 18.VI.c.

Subject to EPA review and approval or modification, conduct any monitoring and/or remedial work required by paragraph no. 18.VI.c. above, according to the schedule required by paragraph no. 18.VI.c.

19. Any monitoring, sampling, analysis, remedial, or other programs, including schedules for the performance of same, required by the terms of this ORDER are, upon approval by EPA, incorporated into this ORDER. Any noncompliance with such an EPA approved program or schedule will be deemed noncompliance with this ORDER.

20. All information required under the terms of this ORDER to be submitted to the EPA, will be sent by certified mail, return receipt requested, to the following address:

Chief, Superfund Branch
Air and Waste Management Division (6AW-S)
U.S. Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75270

21. A copy of all information submitted pursuant to this ORDER, will be sent to the Texas Department of Water Resources (TDWR) at the following address:

Mr. Charles Nemir
Executive Director
Texas Department of Water Resources
P.O. Box 13087, Capitol Station
Austin, Texas 78711

22. If any Respondent fail to meet any of the requirements of this ORDER, such Respondent will pay a penalty of one thousand dollars (\$1,000.00) for each day of violation of such requirements. Upon notification by EPA, payment for such violation will be made by certified check payable to the U.S. Environmental Protection Agency. Payment should be mailed to the following address with a notation of the docket number of this ORDER:

Regional Hearing Clerk (6ORC)
U.S. Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75270

23. Notwithstanding compliance with the terms of this ORDER, Respondents may be required to take any further action necessary to abate any endangerment posed by this facility. Notwithstanding the stipulation of

certain penalties in paragraph no. 22 above, Complainant reserves the right to take appropriate enforcement action, including the right to seek monetary penalties, for any violation of law or this ORDER not specified in paragraph no. 22 above.

24. Any failure to remedy noncompliance with the ORDER in a timely manner may, at EPA's discretion, result in the institution of federally funded cleanup activity, and subsequent pursuit of cost recovery actions available, including punitive damages under Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3).

25. All decisions of EPA under this ORDER, will be communicated to Respondents by the Chief, Superfund Branch (6AW-S), U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

26. All decisions of EPA under this ORDER will be presumed to be valid. If Respondents have any objections to any EPA decision made pursuant to this ORDER, Respondents will notify EPA in writing of their objections within fifteen (15) days of EPA's decision. The parties will then have an additional fifteen (15) days from the receipt by EPA of the notification of objection, to reach agreement. If agreement cannot be reached on any issue(s) within this 15 day period, the dispute will be resolved in favor of EPA. This resolution will be deemed a final Agency Action. The Respondents will either comply with the EPA decision, or seek judicial review of this resolution as set forth in Section 113(b) of CERCLA, 42 U.S.C. §9613(b). In any such review, the Respondents will have the

burden of petitioning the Court for modification of the decision(s) of EPA and will have the burden of demonstrating that such decision(s) is arbitrary, capricious, and unnecessary to accomplish the objectives of this ORDER. Judicial review will be limited to those issues which were not reconciled by agreement of all the parties to this ORDER.

27. Respondents will, within thirty (30) days of the effective date of this ORDER obtain a bond, or other security, sufficient to guarantee performance of the tasks under this ORDER in a manner satisfactory to EPA.

28. This ORDER will, on written notice by EPA to Respondents, terminate when all programs required under paragraph no. 18 have been completed by Respondents and approved by EPA.

29. All actions carried out by Respondents pursuant to this ORDER will be done in compliance with all applicable Federal, State and local requirements.

30. The United States Government and the State of Texas will not be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents or their employees, agents or contractors in carrying out the activities pursuant to this ORDER, nor will the United States Government or the State of Texas be held as a party to any contract entered into by Respondents or their employees, agents or contractors in carrying out activities pursuant to this ORDER.

31. Within ten (10) days of the effective date of this ORDER, Respondents will record notice of, and a copy of, this ORDER in the appropriate Registry of Deeds.

32. The provisions of this ORDER will apply to and be binding upon the parties to this action, their officers, directors, agents, servants employees, successors, trustees, and assigns. Respondents will give notice of this ORDER to any successor in interest prior to transfer of ownership and will simultaneously verify to Complainant that such notice has been given.

33. Respondents will provide access to the Olin Facility to EPA employees and to the EPA's representatives, including contractors and consultants, at all reasonable times and will permit such persons to be present and move freely in the area in which any work is being conducted, at all times work is being conducted pursuant to this ORDER. Respondents will provide access to the Olin Facility to employees and representatives, including contractors and consultants, of the parties to this ORDER, for the purposes of this ORDER, at all reasonable times and will permit such persons to be present and move freely in the area in which any work is being conducted, at all times work is being conducted pursuant to this ORDER. The term "access" as used herein includes a right of ingress and egress, and shall apply to any necessary equipment or vehicles, as well as the persons themselves.

34. Upon request, Respondents will provide to EPA split samples from any samples required under the terms of this ORDER.

35. Respondent shall submit a Quality Assurance Project Plan in accordance with EPA guidance document QAMS-005/80 and ensure that EPA personnel are allowed access to the laboratory utilized by the Respondent for analyses of samples collected during the monitoring program. In addition, the laboratory shall analyze samples provided by EPA under its Hazardous Waste Performance Evaluation Program.

Dated, entered, and effective as of this _____ day of _____,
1982, with the agreement and consent of the parties.

Michael Brown
Acting Assistant Administrator for Solid
Waste and Emergency Response
U. S. Environmental protection Agency

Date

Approved:

For Olin Corporation:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Executive Vice President, Olin Corporation

Date

For Eureka Investment Company:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Executive Vice President
Eureka Investment Company

Date

For Mustang Tractor and Equipment Company:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Executive Vice President
Mustang Tractor and Equipment Company

Date

For Southern Pacific Transportation Company:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Executive Vice President
Southern Pacific Transportation Company

Date

For Consolidated Leasing Ampersand Terminals, Inc.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Executive Vice President
Consolidated Leasing Ampersand Terminals, Inc.

Date

Approved:

For Houston Belt & Terminal Railway Company:

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Executive Vice President

Houston Belt & Terminal Railway Company

Date